

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: : Patent Application
Glazer, Benjamin Lee et al. :
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Serial No. 09/918,166 : Group Art Unit: 3680
 :
Filed: July 30, 2001 : Examiner: Sterrett, Jonathan G.
 :
For: Customer Driven, Sponsor Controlled :
Networked Based Graphical Scheduling
System and Method :Atty. Docket No. UAPPOINT-11112
_____ :

BRIEF ON APPEAL

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in support of the Notice of Appeal filed February 6, 2006, appealing the final rejection of claims 1-20. The Commissioner is hereby authorized to charge deposit account 502800 for any and all fees necessary for filing this brief. The following headings correspond to the requirements of 37 CFR §41.37(c).

(I) **REAL PARTY IN INTEREST**

The real party in interest is the applicants in this application.

(II) **RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences known to appellants, the appellants' legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board of Appeals ("Board")'s decision in the pending appeal.

(III) **STATUS OF CLAIMS**

Claims 1-20 are all the claims pending in the application.

Claims 1-8, 10-18 and 20 are rejected under 35 U.S.C. 103(a) as being obvious in view of the combined teachings of U.S. Patent No. 5,970,466 to Detjen et al. (hereinafter referred to as the "Detjen Patent") taken in view of the teachings of U.S. Patent No. 6,380,959 to Wang et al. (hereinafter referred to as the "Wang Patent").

Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being obvious in view of the combined teachings of the Detjen Patent in view of the Wang Patent and taken further in view of the teachings of U.S. Patent No. 5,289,531 to Levine (hereinafter also referred to as the "Levine Patent").

(IV) **STATUS OF AMENDMENTS**

A Final Rejection in the above application was mailed November 4, 2005. No after final amendments were filed. All of the substantive rejections of the claims are set forth in the final rejection of November 4, 2005. No claim amendments were filed after final rejection.

(V) **SUMMARY OF CLAIMED SUBJECT MATTER**

The following summary references the published patent application paragraph numbers for convenience and to avoid confusion due to patent office renumbering of certain paragraphs in the present application, and these

published application paragraph numbers correspond to associated application paragraphs as filed.

The present invention relates to a customer driven, sponsor controlled network-based graphical scheduling system and method. (See paragraph 2 of the published patent application). The invention provides a network based scheduling system 10 for developing a schedule for a sponsoring organization 12, the system comprising:

a sponsor controlled customer database containing information relevant to individual customers who periodically need to schedule appointments with the sponsoring organization (note in paragraph 14 of the published application that "the central controller 14 will maintain a customer database associated with specific customers of the sponsoring organization 12");

a set of sponsor parameters associated with each customer which define possible appointment times for a customer (as described in paragraphs 14 and 15 of the published patent application, "important for the scheduling system 10 of the present invention is that the customer database or other database in the central controller 14 be informed of when individual customers need to be advised to make an appointment...Another important parameter supplied by the sponsoring organization for each individual customer is the time to be allotted for the scheduled appointment.... It should be appreciated that the scheduling system 10 of the present invention allows the sponsoring organization 12 to customize both the scheduling frequency and the allotted time for each individual customer...The scheduling system 10 of the present invention accommodates these variations... Another important parameter associated with each individual customer would be other special instructions associated with this customer. The special instructions may be associated with the equipment necessary for an individual customer visit. ... Other special instructions unique to individual customers may be accommodated with the scheduling system 10 of the present invention...The scheduling system 10 of the present invention allows the sponsoring organization 12 to customize the schedule offered to individual customers.");

a central controller 14 managing a schedule for the sponsoring organization, wherein the central controller operates via a network to

- i) contact a plurality of the customers 20 concerning the scheduling of appointments via the network (See paragraph 16 of the published patent application),
- ii) supply available appointment times via the network directly to a plurality of the customers, with the available appointment times that are supplied are determined by the sponsor parameters associated with the individual customer, whereby the supplied appointment times are specific to the individual customer (see paragraphs 14-16 of the published patent application), and
- iii) receive scheduling information via the network directly from a plurality of the customers (See paragraphs 14-21 of the published patent application in which this is detailed).

In the scheduling system 10 of the present invention the network may be the Internet as noted in paragraph 13 of the published patent application. Further, in the scheduling system 10 of the present invention the controller 14 may supply a graphical appointment calendar via the network to a plurality of the customers 20 with the available appointment times that have been determined by the sponsor parameters associated with the individual customer being graphically illustrated, wherein the customer can directly schedule an appointment via the network by selecting the icon associated with the desired appointment time (See figure 2 and the description in paragraph 16 of the published patent application). In the scheduling system 10 of the present invention the controller 14 may use electronic mail to contact a plurality of the customers 20 concerning the scheduling of appointments and may use the World Wide Web to supply available appointment times that have been determined by the sponsor parameters associated with the individual customer to a plurality of the customers and to receive scheduling information directly

from a plurality of the customers (see the description in paragraph 16 of the published patent application).

In the scheduling system 10 of the present invention the controller 14 may contact a plurality of the customers 24 concerning the scheduling of appointments via off-line communication techniques in addition and complementary to the on line contacting as discussed in paragraph 21 of the published patent application.

In the scheduling system 10 of the present invention the sponsor parameters for each customer 20 or 24 may include the availability of sponsor personnel, the availability of sponsor resources, and the time to be allotted for the scheduled appointment (see paragraphs 14-15 of the published patent application).

In the scheduling system 10 of the present invention the controller 10 may supply the sponsor with a real time master schedule via the network as discussed in paragraph 23 of the published patent application. Further, in the scheduling system 10 of the present invention the controller 10 may contact a plurality of the customers 20 or 24 via the network concerning rescheduling of appointments due to changes in the sponsor parameters as discussed in paragraphs 18 of the published patent application. Further, in the scheduling system of the present invention the rescheduling of appointments may be prompted by customer preferences wherein a preferential appointment time becomes available and the customer is subsequently notified via the network by the controller 14.

The claims effectively recite a customer driven, sponsor controlled network-based scheduling system and method that effectuates bi-lateral customer driven appointment scheduling with a sponsoring organization. The scheduling system facilitates the sponsoring organization, such as a doctor's office, clinic, auto repair shop or the like, to communicate an invitation to the customer, such as a patient, client or consumer, whereby the customer is only offered appointment times that can accommodate his particular scheduling needs and he directly schedules an appointment with the sponsoring

organization via the network. In other words, the display of the schedule is filtered to show only time segments which meet the criteria associated with the individual customer. The criteria may include sponsoring organization availability, contiguous time slot availability and resource availability. The customer will have the opportunity to directly accept and thereby directly schedule the most desirable appointment time. The controller 14 will communicate the information to the sponsoring organization.

The present claimed invention allows for the sponsor (e.g. the doctors office) to establish sponsor controlled parameters that are applied to the particular customers to establish the filtered schedule that fits the particular customer, so that the customer will only see what is relevant to him from the sponsor's viewpoint. The present system is a customer driven, but sponsor controlled system. The sponsor control through the parameter selection also opens the door for schedule optimization through appropriate sponsor rules. In other words, the sponsor can establish or utilize more complex scheduling rules to optimize the resulting schedule. The schedule optimization is not merely a time optimization issue, but could be an income optimizing strategy that is employed in the sponsor parameters. The key aspects of the invention are defined in the independent claims and not taught or fairly suggested by the applied prior art.

(VI) GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-8, 10-18 and 20 are rejected under 35 U.S.C. 103(a) as being obvious in view of the combined teachings of the Detjen Patent taken in view of the teachings of the Wang Patent.

2. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being obvious in view of the combined teachings of the Detjen Patent in view of the Wang Patent and taken further in view of the teachings of the Levine Patent.

(VII) **ARGUMENTS**

1. The rejection of claims 1-8, 10-18 and 20 under 35 U.S.C. §103(a) as being obvious in view of the combined teachings of the Detjen Patent taken in view of the teachings of the Wang Patent.

a. Claims 1 and 11

(i) a set of sponsor parameters associated with each customer which define possible appointment times for a customer

Claim 1 defines “a set of sponsor parameters associated with each customer which define possible appointment times for a customer.” As described in the specification this is a set of unique parameters for each customer that define a collection of possible appointment times for the customer that allow for the filtered schedules to be created. The examiner attempts to rely upon the common schedule displayed in the Detjen Patent to read on this limitation. The Detjen Patent clearly illustrates a set of global sponsor parameters that define universal remaining or possible appointment times, but there is nothing to teach or suggest a set of parameters that are “associated with each customer” as claimed. After an appointment is scheduled in the Detjen Patent, the Detjen Patent records parameters associated with the customer related to the scheduled appointment, however there is no teaching or suggestion of a set of sponsor parameters associated with each customer that define possible appointment times for the specific customer. These parameters, unique to each customer, are clearly one of the most critical aspects of the present invention. The Wang patent fails to teach or suggest any such parameters associated with individual customers that define possible appointment times for the individual customer as claimed.

(ii) filtered schedules

Clearly a critical feature of the present invention is that the central controller 14, managing a schedule for the sponsoring organization, operates via a network to “supply available appointment times via the network directly to a plurality of the customers, with the available appointment times that are supplied are determined by the sponsor parameters associated with the

individual customer, whereby the supplied appointment times are specific to the individual customer." The claims emphasize that "the supplied appointment times are specific to the individual customer." As described in the specification the "display of the schedule for the individual customer 20 is specifically filtered to only show time slots which meet the parameters associated with the individual customer 20."

The examiner continues to erroneously assert that the Detjen Patent teaches such limitations with a display of "the appointments they have already scheduled." It is understood that the examiner is relying upon the Wang patent for the suggestion of sending the schedule information to the customer over a network, which will be addressed later. The examiner appears to be misunderstanding the remaining elements of this claim language. The limitation is the display of "available appointment times ... whereby the supplied appointment times are specific to the individual customer." Specifically the available appointment times "that are supplied are determined by the sponsor parameters associated with the individual customer." The display of scheduled appointment times on a schedule is not a listing of "available appointment times" that is in any manner "specific to the individual customer". The filtered schedule is a critical element of the present claimed invention and not taught or suggested in any of the cited prior art of record. The Detjen Patent clearly does not teach or suggest providing such a "filtered schedule" to the customer, as it is only an office based system (i.e. requires the office based scheduler).

The Wang patent does not teach or suggest providing the customer such with a "filtered schedule". The examiner erroneously suggests that the Wang patent provides "available appointment times to book an event on a person's calendar." The Wang patent teaches providing a general on-line calendar that can allow users to the user to "collect the user preference information" and then send "the information to the server" which will then lock up the resources, if available, and avoid double bookings. It is quite clear that the Wang patent teaches providing a general, universal calendar to the clients,

expressly teaching away from the display of “available appointment times ... whereby the supplied appointment times are specific to the individual customer,” specifically wherein the available appointment times “that are supplied are determined by the sponsor parameters associated with the individual customer.” It is the server side process in the Wang Patent that deals with the available appointment times, and such available appointment times are clearly NOT supplied directly to the clients via the network in the Wang scheduling process (if the client elects a date, and seat location that is not scheduled THEN he will receive a confirmation of his REQUEST – such that it is clear the client does not see customer specific available appointment times).

(iii) Contacting customers concerning the scheduling of appointments via the network

The claimed invention requires the controller to “contact a plurality of the customers concerning the scheduling of appointments via the network.” The examiner notes that in the Wang patent, e-mails may be sent to customers (see column 5 regarding an e-mail generating capplet™), but there is no teaching here that such are concerning the scheduling of appointments. The examiners attention is directed to the described operation of the Capplets in the Wang patent and the instances in which they may be activated in column 7, which does not define advance scheduling options. There is no doubt that the Wang patent teaches using e-mails sent to users associated with a calendar event. However it is completely silent as to any suggestion of sending e-mails to “customers concerning the scheduling of appointments” as required in the claims. It appears that the Wang patent teaches contacting users regarding scheduled events rather than upcoming scheduling issues.

The examiner also references the section describing a caplet™ that specializes in making reservations for a scheduled event in column 13 of the Wang patent, but this also does not discuss the contacting of customers regarding the scheduling of appointments. Again this highlights that the Wang patent communicates with clients regarding scheduled events. There is

nothing in the Wang patent that teaches or suggests the use of a network for the purpose of contacting selected clients for the purpose of having the clients schedule future items. Neither the Wang Patent nor the Detjen Patent teach or suggest the use of a network for the purpose of contacting selected clients for the purpose of having the clients schedule future items.

(iv) The controller receives scheduling information via the network directly from a plurality of the customers.

The claims further define that the controller 14 receives “scheduling information via the network directly from a plurality of the customers.” The Wang patent teaches that those desiring to purchase a ticket or the like for a global or universally displayed event over the network, may use the network to send a request, and then the request is processed, and if the requested resources are available they are “locked up” and a confirmation is sent to the customer. This is analogous to how the Detjen Patent system works (off line) in that the scheduler will receive the information from the customer and schedule the requested time, if available. Applicant’s agree that it would be obvious for the scheduler of the Detjen Patent system to receive customer requests via the network, then lock up the desired resources via the scheduling system, and confirm the appointment (if available) via the network, as taught by the Wang Patent. This would NOT be a direct scheduling by the customer as defined in the present invention in above. The scheduler would still be used in the combined teachings. The present invention intends to minimize such interaction.

The examiner asserts that the Wang Patent teaches a caplet that schedules future events on behalf of the user. Column 13 of the Wang patent elaborates on this process and specifically places a separate buffer between the user and the scheduling function on the server side of the web calendar event transaction as described. It is clear that the user merely submits a request to a separate server processor that attempts to act on it. The claims define that the scheduling information is directly from a customer. In both the Wang patent and the Detjen Patent the users submit a request for a desired

time from a master list which is then scheduled, if available, and reported back to the user. These expressly teach away from the direct client scheduling of the present claimed invention.

Claim 11 is a method claim including substantially the same limitations discussed above.

b. Claims 3 and 13

Claim 3 depends from claim 1 and further defines “wherein the controller supplies a graphical appointment calendar via the network to a plurality of the customers.” The examiner correctly cites that the Detjen Patent has a graphical calendar display, however this is not the entire claim limitation of claim 3 or 13. The claim defines that the graphical appointment calendar, which is filtered for the particular customer, is supplied to the customer. Even assuming that the Wang Patent teaches the concept of contacting clients for future scheduling purposes, there is absolutely no teaching or suggestion in either reference that such contact would be in the form of a graphical interface as defined in claim 3 or 13. The only support for this comes from the applicants own disclosure. Further, note that the booking caplet described in column 13 of Wang Patent sends “messages” between the parties, suggesting a text basis to such transaction. It would seem that, at best, the combined teachings of the Wang Patent and the Detjen Patent would teach a message request from a client that the server side operator in the Detjen Patent would input into the graphical calendar. The examiner is attempting to bootstrap a combination of elements that cannot be fairly said to be present in or suggested by the applied prior art.

Claim 13 is a method claim including limitations similar to those discussed in claim 3.

c. Claims 5 and 15

Claim 5 depends from claim 1 and further defines “wherein the controller contacts a plurality of the customers concerning the scheduling of appointments via off-line communication techniques.” The examiner notes that off-line communication is old and well known, and then suggests it would be obvious to use both on line and off line communication in the combined system.

This rejection further highlights some of the distinctions between the applied prior art and the present system.

The Detjen Patent is directed to an in-house scheduling system wherein the input is from the scheduler following interaction between the human scheduler and the customers, and the system itself has no interaction with the customers. The Wang Patent is directed to a Web based calendar architecture in which there is no point to Off Line customer communications. It is only the present invention that is directed to a customer driven scheduling system and method which teaches or suggests the on line and off line customer contact. There is no teaching or suggestion in the Wang patent or the Detjens patent of a controller that contacts customers for future scheduling both on-line and off line methods.

Claim 15 is a method claim including limitations similar to those discussed in claim 5.

d. Claims 7 and 17

Claim 7 depends from claim 1 and further defines that the scheduling system has the controller supply the sponsor with a real time master schedule via the network. The examiner relies upon the Detjen Patent to arguably teach this limitation in that the computer program of the Detjen Patent is on a local area network. This limitation does not meet the claimed limitation. Claim 7 references "the network" in which the controller contacts the customers. Note that claim 7 defines "the network" rather than "a network". Arguably the examiner will rely upon the Wang patent to teach such a network. This would also fail to meet the claimed limitation. This claim defines that the controller can be remote from the sponsor, as described in the specification. In such an arrangement the controller uses the network to contact the customer and the sponsor. Neither the Detjen Patent nor the Wang Patent suggests providing such a remote controller. The Detjen Patent is directed to an in-house scheduling system wherein the input is from the scheduler. The Wang patent also teaches that the controller is at the sponsor location. The examiner's rejection here attempts to change the meaning of the claim terms in an attempt to support the rejection.

Claim 17 is a method claim including limitations similar to those discussed in claim 7.

e. Claim 8 and 18

Claim 8 depends from claim 1 and further defines that the controller contacts a plurality of the customers via the network concerning rescheduling of appointments due to changes in the sponsor parameters.

The examiner suggests that because the Detjen Patent allows the scheduler to modify a scheduled appointment that this somehow reads on the claim limitations. The ability of an in-house scheduler to re-schedule appointments as found in the Detjen Patent, does not teach or suggest a

controller that actively contacts customers via the network regarding re-scheduling of appointments due to sponsor parameter changes. There is nothing in either reference to teach or suggest this claim limitation.

Claim 18 is a method claim including limitations similar to those discussed in claim 8.

2. The rejection of claims 9 and 19 under 35 U.S.C. §103(a) as obvious in view of the combined teachings of Detjen Patent taken in view of the Wang Patent taken further in view of the Levine patent.

Claim 9 depends from claim 8 and further defines that the rescheduling of appointments is “prompted by customer preferences wherein a preferential appointment time becomes available and the customer is subsequently notified via the network by the controller”. The deficiencies of the Detjen Patent and the Wang patent were discussed at length above in connection with claims 1 (and 11) and 8 (and 18), and are applicable to claims 9 and 19 as well.

In addressing the new limitations of claims 9 and 19 the examiner relies upon the Levine patent in which he erroneously suggests that the Levine patent discloses a system in which “customer preferences for a new appointment time causes office to reschedule based upon their preferences for a new time.” This is a gross mischaracterization of the teachings of the Levine Patent. The Levine Patent is directed to an “electronic rescheduler” which operates to assist rescheduling as “it is often found necessary to reschedule an entire series of appointments where a key person at that office is called away.” When a rescheduling occurs, the Levine Patent system allows for options that permit the user to accommodate his preferences. The Levine Patent does not teach or suggest a system in which the customer preferences “cause” the rescheduling to occur as erroneously suggested by the examiner. The present claimed system and method is the only system and method that will drive the rescheduling based upon the customer preferences (which are, of course, activated through changes in sponsor parameters).

There is certainly no motivation in these references to combine these teachings, but even if combined they fail to met the explicit claim limitations as discussed above.

CONCLUSION

The examiners rejections ignore the explicit claim limitations present in the above identified claims. Based on the above, Appellants respectfully request that the Board reverse the Examiner on the rejection of the claims.

Respectfully submitted,
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CLAIM APPENDIX

Following is a complete listing of the claims involved in the appeal.

1. A network based scheduling system for developing a schedule for a sponsoring organization, the system comprising:

a sponsor controlled customer database containing information relevant to individual customers who periodically need to schedule appointments with the sponsoring organization;

a set of sponsor parameters associated with each customer which define possible appointment times for a customer;

a central controller managing a schedule for the sponsoring organization, wherein the central controller operates via a network to

- i) contact a plurality of the customers concerning the scheduling of appointments via the network,
- ii) supply available appointment times via the network directly to a plurality of the customers, with the available appointment times that are supplied are determined by the sponsor parameters associated with the individual customer, whereby the supplied appointment times are specific to the individual customer, and
- iii) receive scheduling information via the network directly from a plurality of the customers.

2. The scheduling system of claim 1, wherein the network is the Internet.

3. The scheduling system of claim 1, wherein the controller supplies a graphical appointment calendar via the network to a plurality of the customers with the available appointment times that have been determined by the sponsor parameters associated with the individual customer being graphically illustrated, wherein the customer can directly schedule an appointment via the network by selecting the icon associated with the desired appointment time.

4. The scheduling system of claim 1, wherein the controller uses electronic mail to contact a plurality of the customers concerning the scheduling of appointments and uses the World Wide Web to supply available appointment times that have been determined by the sponsor parameters associated with the individual customer to a plurality of the customers and to receive scheduling information directly from a plurality of the customers.

5. The scheduling system of claim 1, wherein the controller contacts a plurality of the customers concerning the scheduling of appointments via off-line communication techniques.

6. The scheduling system of claim 1, wherein the sponsor parameters for each customer include the availability of sponsor personnel, the availability of sponsor resources, and the time to be allotted for the scheduled appointment.

7. The scheduling system of claim 1, wherein the controller supplies the sponsor with a real time master schedule via the network.

8. The scheduling system of claim 1, wherein the controller contacts a plurality of the customers via the network concerning rescheduling of appointments due to changes in the sponsor parameters.

9. The scheduling system of claim 8, wherein the rescheduling of appointments is prompted by customer preferences wherein a preferential appointment time becomes available and the customer is subsequently notified via the network by the controller.

10. The scheduling system of claim 1, wherein the sponsor is a medical professional.

11. A method for developing a schedule for a sponsoring organization comprising the steps of:

providing a sponsor controlled customer database containing information relevant to individual customers who periodically need to schedule appointments with the sponsoring organization, a set of sponsor parameters associated with each customer which define possible appointment times for a customer, and a central controller creating a schedule for the sponsoring organization;

contacting via an electronic network a plurality of the customers concerning the scheduling of appointments;

supplying via the electronic network available appointment times to a plurality of the customers, with the available appointment times determined by the sponsor parameters associated with the individual customer, whereby the supplied appointment times are specific to the individual customer; and

receiving scheduling information via the electronic network directly from a plurality of the customers.

12. The method of claim 11, wherein the network is the World Wide Web.

13. The method of claim 11, wherein the controller supplies a graphical appointment calendar via the network to a plurality of the customers with the available appointment times that have been determined by the sponsor parameters associated with the individual customer being graphically illustrated, wherein the customer can directly schedule an appointment via the network by selecting the icon associated with the desired appointment time.

14. The method of claim 11, wherein the controller uses electronic mail to contact a plurality of the customers concerning the scheduling of appointments and uses the World Wide Web to supply available appointment

times that have been determined by the sponsor parameters associated with the individual customer to a plurality of the customers and to receive scheduling information directly from a plurality of the customers.

15. The method of claim 11, wherein the controller contacts a plurality of the customers concerning the scheduling of appointments via off-line communication techniques.

16. The method of claim 11, wherein the sponsor parameters for each customer include the availability of sponsor personnel, the availability of sponsor resources, and the time to be allotted for the scheduled appointment.

17. The method of claim 11, wherein the controller supplies the sponsor with a real time master schedule via the network.

18. The method of claim 11, wherein the controller contacts a plurality of the customers via the network concerning rescheduling of appointments due to changes in the sponsor parameters.

19. The method of claim 18, wherein the rescheduling of appointments is prompted by customer preferences wherein a preferential appointment time comes available and the customer is subsequently notified via the network by the controller.

20. The method of claim 11, wherein the sponsor is a medical professional.

EVIDENCE APPENDIX

Not Applicable

RELATED PROCEEDINGS APPENDIX

Not Applicable